

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WANDA WALDON,

Plaintiff,

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SA-19-CV-01170-FB

VS.

PEP BOYS-MANNY, MOE & JACK OF
DELAWARE, INC.,

Defendant.

ORDER

Before the Court is the above-styled cause of action, which Defendant removed to this Court on September 27, 2019 [#1] and which was referred to the undersigned for all pretrial proceedings on October 3, 2019 [#5]. Defendant has filed a Motion to Dismiss in this case [#4], which argues that Plaintiff's state-court Petition fails to state a claim upon which relief can be granted and that therefore must be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Defendant's Motion to Dismiss was filed on October 3, 2019, meaning Plaintiff's response to the motion was due on or before October 21, 2019. *See* Loc. R. CV-7(e) (responses to dispositive motions such as a motion to dismiss are due within seven days of motion's filing); Fed. R. Civ. P. 6(a), (d) (adding three days to response deadline for service by mail and extending the deadline to Monday if the final date otherwise falls on a Sunday). To date, Plaintiff has not filed a response. Pursuant to Local Rule CV-7(e), if there is no response filed within the time period prescribed by the rules, the court may grant the motion as unopposed.

Although Plaintiff is representing herself *pro se* in this Court and therefore held to a less stringent standard than a party represented by an attorney, she is still required to follow the rules that govern all litigants in federal court. *Grant v. Cuellar*, 59 F.3d 524, 524 (5th Cir. 1995). These rules include but are not limited to the rules and Court orders regarding conference with opposing counsel, following deadlines imposed by the rules and the Court's Scheduling Order, observing the response times for nondispositive and dispositive motions as set forth in Local Rule CV-7(e), and keeping the Court updated with a current address to ensure all filings are received.

Due to Plaintiff's *pro se* status, the Court will allow Plaintiff to file a More Definite Statement under Rule 12(e) providing more details about her claims against Defendant before considering whether to grant Defendant's Motion to Dismiss as unopposed or on the merits. In her More Definite Statement, Plaintiff should attempt to cure the deficiencies in her pleadings identified by Defendant in its motion. A failure to file the ordered More Definite Statement could result in Defendant's Motion to Dismiss being granted or this case being dismissed for failure to prosecute. If Plaintiff no longer intends to pursue her case against Defendant, she should file a notice with the Court advising the Court that she desires to dismiss her claims.

IT IS THEREFORE ORDERED that Plaintiff file a More Definite Statement, which provides factual detail regarding the unlawful actions Plaintiff claims Defendant has taken and the relief Plaintiff seeks through this lawsuit, on or before **November 22, 2019**.

IT IS FURTHER ORDERED that Plaintiff familiarize herself with the following resources to assist her in prosecuting her case:

- The Federal Rules of Civil Procedure, available at: www.uscourts.gov/file/rules-civil-procedure

- This Court's Local Rules, available at <https://www.txwd.uscourts.gov/court-information/lcr-civil-rules/>
- The "Complete Pro Se Manual" which is available on the Court's website at: <https://www.txwd.uscourts.gov/filing-without-an-attorney/>.

IT IS FURTHER ORDERED that Plaintiff appear either in person or by phone at the Initial Pretrial Conference scheduled for December 12, 2019 at 10:30 a.m. as previously ordered. If Plaintiff would like to participate telephonically, she must contact Valeria Sandoval, Courtroom Deputy, at chestney.chambers@txwd.uscourts.gov at least **24 hours before the scheduled conference** to obtain call-in information.

IT IS SO ORDERED.

SIGNED this 5th day of November, 2019.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE